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MEMO ENDORSED

January 23, 2008

Via Telecopy To 1-212-805-6326

Hon. Colleen McMahon
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 640
New York, NY 10007

**Re: Dr. Irakli Glonti and David Dateshidze v. Lehman
Brothers, Inc. and RBC Drin Rauscher, Inc., In The United
States District Court For The Southern District Of New
York, No. 07 CIV 10975 (CM)(AJP)**

Dear Judge McMahon:

Although the Court made no provision, in the December 17, 2007 scheduling memo (Document No. 7), for the plaintiffs to respond to the reply memorandum of Lehman Brothers, Inc. supporting its motion to compel arbitration, plaintiffs request permission to file a short declaration by Dr. Irakli Glonti to address new matter that Lehman Brothers, Inc. raised in its reply memorandum, specifically through an e-mail attached to the Declaration of Geoffrey Valentino, Esquire (Document No. 19).

I initially asked counsel for Lehman Brothers, Inc. to withdraw Mr. Valentino's declaration because the evidence does not support the assertion being made in his declaration and in Lehman Brothers, Inc.'s reply memorandum (Document No. 21), at page 6, that Dr. Glonti authored the e-mail. See Attachment. But he declined. He, however, does not appear to object to Dr. Glonti filing a supplemental declaration in which Dr. Glonti explains he did not author the e-mail and that it was authored by another and forwarded by the recipient of that e-mail to him which he then forwarded to Frank Foerster - confirming what I represented to Lehman Brothers, Inc.'s counsel in the attached letter.

No - I do
not accept
sur-replies
Fuller 1/23/08

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If the Court elects not to act on plaintiffs' request now, perhaps we can then address their request at the Rule 16 conference scheduled this Friday, January 25, 2008, at 11:00 A.M. (Document No. 6).

Respectfully yours,

A handwritten signature in black ink, appearing to read "Arnold I. Kalman". The signature is fluid and cursive, with the first name "Arnold" and last name "Kalman" clearly distinguishable.

ARNOLD I, KALMAN

cc: Theodore A. Krebsbach, Esquire, *via telecopy to 1-212-825-9828*
Brian F. Amery, Esquire, *via telecopy to 1-973-514-1660*

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January 21, 2008

Via Telecopy To 1-212-825-9828

Theodore A. Krebsbach, Esquire
Theodore R. Snyder, Esquire
Krebsbach & Snyder
One Exchange Plaza
55 Broadway, Suite 1600
New York, New York 10006

***Re: Dr. Irakli Glonti and David Dateshidze v. Lehman
Brothers, Inc. and RBC Dain Rauscher, Inc., In The United
States District Court For The Southern District Of New
York, No. 07 CIV 10975 (CM)(AJP)***

Dear Messrs. Krebsbach and Snyder:

It appears that in Lehman Brothers, Inc.'s ("Lehman Brothers") zeal to show that Dr. Irakli Glonti had sufficient command of English to read and understand LB 00683 and LB 00687, it attached to the Declaration of Geoffrey Valentino, Esquire, dated January 17, 2008, what Mr. Valentino described to be "a true and correct copy of an email dated February 6, 2001 sent by Irakli Glonti to Frank Foerster and written in English regarding a 'project with the Chief of Staff of the office of the President of Ghana.'" Lehman Brothers then used this email to argue "four months after opening this account with Lehman Brothers, [Dr. Glonti] sent a detailed email written in plain English to Foerster. See Lehman Brothers' Reply Memorandum (Document 21), at 6.

While Lehman Brothers is correct that the e-mail is "written in plain English," it is wrong for it to represent the e-mail was "sent by Irakli Glonti to Frank Foerster" – it was actually "forwarded." But more importantly, Lehman Brothers is wrong to suggest that Dr. Glonti wrote this e-mail. Of course, I am referring to the embedded e-mail "tracking" data, the telltale signs of a forwarded message and not an original message, and the possible e-mail correspondence in the chain appearing

Theodore A. Krebsbach, Esquire
Theodore R. Snyder, Esquire
January 21, 2008

just before and after the date on which this e-mail is forwarded (at the bottom of the e-mail "page 40" appears). And all of this data is in Lehman Brothers' possession which in its zeal to contradict Dr. Glonti's declaration it may have overlooked, but if it had taken sufficient enough time to examine, it would have not afterwards elected to make use of the e-mail as it did.

If it had put aside its zeal and closely examined the correspondence and "tracking" data, it should have disclosed the e-mail was authored by Marcello Moro, who at the time was in Accra, Ghana, and from where (mention of Accra is made in Mr. Moro's e-mail) he transmitted the e-mail to Beno Kashakashvili ("Dear Beno" with which the e-mail opens). Mr. Kashakashvili afterwards forwarded Mr. Moro's e-mail to Dr. Glonti. And Dr. Glonti then forwarded Mr. Moro's e-mail to Frank Foerster ("Subject: Fw:").

In light of this, there are two choices available for Lehman Brothers to make.

The first is for Lehman Brothers to alert the Court that it is withdrawing Mr. Valentino's declaration and the Court should thus ignore any mention Lehman Brothers makes in its Reply Memorandum to Mr. Valentino's declaration, the e-mail and the argument, on the basis of which, it asserts Dr. Glonti had command of English.

The alternative is for Lehman Brothers to waive any objection it has to Dr. Glonti offering a supplemental declaration in which he addresses the e-mail attachment to Mr. Valentino's declaration. Of course, I will have to obtain the Court's permission for this, but I believe it will be easier to obtain such permission if I can inform the Court that Lehman Brothers does not object to such a supplemental declaration.

And will you please transmit to me, as an e-mail attachment, the digital version of the e-mail that Mr. Valentino attached to his declaration. And I would also want to see the e-mail transmissions preceding page "40" and those following this page.

Very truly yours,



ARNOLD I. KALMAN